IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION No. 3563 of 2007

Vakil Mohammed Kureshi ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr A. M. Saraogi, Advocate for the Applicant.

Mr K. V. Saste, A.P.P. for the State.

CORAM: V. C. DAGA,J.

DATED: 25TH OCT, 2007.

P.C.:-

1. Heard learned counsel for the applicant and the learned APP for the State.

2. Perused application and the material available on record.

3. The applicant is seeking bail, under Section 439 of the Cr.P.C., in C.R. No.262 of 2007 registered with Malwani Police Station, for the offence under Sections 143,144, 145, 147, 148, 306, 324, 353, of the I.P.C. and under Sections 37 (a) read with Section 135 of the Bombay Police Act.

4. Here, I may mention that the observations made by learned Ad-hoc Additional

Sessions Judge, Mumbai in paras 8 and 9 of the order dated 19/10/2007, while rejecting application for bail. Paras 8 and 9 of the said order read as under:-

> "8. Perused the record and the statements of injured witnesses. The statement of injured Shoaib Hashim Sayyed is silent regarding any overt act played by Vakil Mohammed Qureshi who is the applicant-accused herein. In the statement of injured Dilsher Mohd. Shoaib Shaikh, there is a reference of assault made by Vakil. Though it is stated that Vakil has assaulted Shoaib Sayyed, the police had pointed out and recorded his statement that he has identified him as the same person who has assaulted Shoaib. In the statement of injured Thomas Kuruvilla, it is stated that Nasim Siddiqui, Vakil and others had assaulted him and his accompaniment with fist and kick blows and wooden plank. The statement of Fakruddin is that the applicant-accused had altercation and he gave a threat for not fixing the banner. The other injured Mohammed Shafi Abdul Hamid Shaikh has not attributed any act to the applicant."
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> "9.The presence of the applicant-accused can be inferred from the statement of some of the injured witnesses. Some of them attributed the overt act to him. Investigation is in progress. Offence took place because of political rivalry. If the applicant-accused is released on bail during the investigation, then the possibility of tampering with the evidence or threatening the witnesses cannoty be ruled out. Hence application deserves to be rejected..."

5. Looking to the material available on

record to connect the present applicant with the alleged offence and for the reasons recorded by the Ad-hoc Additional Sessions Judge, Mumbai in its order dated 19.10.2007 in B.A. No. 22 of 2007 which still hold gold, this is not a fit case to enlarge the applicant on bail.

6. In the result, the present application stands rejected.

7. Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(V.C. DAGA,J.)